

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

FRANK M. PICCOLELLA, SR.,	:	NO. 08 - 02,232
Appellant	:	
vs.	:	ZONING APPEAL
	:	
ZONING HEARING BOARD OF	:	
LYCOMING COUNTY,	:	
Appellee	:	

OPINION IN SUPPORT OF ORDER OF DECEMBER 24, 2008,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Appellant has appealed this Court’s Order of December 24, 2008, which denied his appeal from the decision of the Lycoming County Zoning Hearing Board which denied his appeal of the Zoning Administrator’s approval of the application for a zoning permit submitted by Laurel Hill Wind Energy, LLC. In his Statement of Errors Complained of on Appeal, Appellant raises the same issues as had been raised before this Court and also alleges error in this Court’s conclusion that although 28 alleged permit application deficiencies had been argued in the appeal before the Zoning Hearing Board, before this Court “Appellant narrowed the issue to include only four.”

With respect to this Court’s conclusion that all but four of the alleged permit application deficiencies were withdrawn as grounds for the appeal, the Court refers to pages 5 - 7 of the transcript of the argument held December 11, 2008, where the Court asked of counsel¹ whether all 28 alleged deficiencies were “still in play” or whether the Zoning Administrator’s response had resolved any of them. Counsel’s response was that “some of the responses were appropriate and satisfactory” but that there remained “some number” that were “left unaddressed or uncorrected.” When counsel indicated he intended to “argue it in general about the deficiencies as a whole, and to the extent that there are ten deficiencies left that weren’t addressed, or 12, or five, that there were still substantive deficiencies in the application that ... should have led to it being denied”, the Court queried “what am I supposed to do, guess or – at

¹ Although the appeal itself was filed by Mr. Piccolella pro se, and the instant appeal is being handled by Mr. Piccolella pro se, at argument Mr. Piccolella was represented by Christian Frey, Esquire.

which ones are substantive, that you believe are substantive?” and then asked counsel “can you give me an idea of what the most telling errors were that you believe demands reversal of their decision?” Counsel replied, “Yes, Your Honor” and proceeded to argue four of the 28 alleged deficiencies. The Court therefore believed counsel was narrowing the issue to include only those four, and it is noted that he did not indicate by number or otherwise any other permit application deficiencies he wished the Court to address.

With respect to the remaining issues, as such were raised and addressed by this Court in its opinion in support of the Order of December 24, 2008, the Court will simply rely on that opinion for purposes of the instant appeal.

Dated: April 6, 2009

By The Court,

Dudley N. Anderson, Judge

cc: Frank Piccolella, Sr., 573 Roaring Branch Road, Liberty, PA 16930
Karl K. Baldys, Esq.
Thomas Marshall, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson